

device, and which further includes a pocket disposed upon the exterior surface of the shell away from the longitudinal axis, the pocket including a resilient opening, the size of the opening being variable depending upon the extent to which the resilient opening is extended, as recited in claim 1.

Lindsay merely discloses a tool holder with pockets which, according to its disclosure, is for use with a 5 gallon bucket to hold carpenter or tradesman tools. Lindsay specifically fails to disclose a utility apron wherein any of the pockets have a resilient opening, and wherein the size of the opening is variable depending upon the extent to which the resilient opening is extended, as recited in claim 1. Nor does the Office Action indicate that Lindsay discloses these features of the invention.

Lindsay also fails to suggest any such design. Applicant can find no teaching in Lindsay which would suggest the use of resilient pocket openings. Lindsay in fact teaches away from such use. According to the disclosure of Lindsay, the items to be placed in the pockets include tools, for example, consisting of hammers, wrenches, pliers, and the like. The inclusion of resilient pocket openings in the pockets would not be expected to be suitable for retaining such items. Moreover, the weight of such item typically would be expected to cause them to be retained in the pockets, so that no additional means would be required for

retention. As is explained in Applicant's specification, for example, at pages 2-3, previous apron designs typically have been limited in both size and shape for the appropriate retention of a wide range of items such as those used in the cleaning of residences and other buildings. Lindsay apparently fails to recognize these inadequacies and therefore fails to suggest modifications needed to overcome them.

The Office Action at page 2 cites Berry et al. (4,880,315) as disclosing using elastic bands at the opening of pockets for tools or implements, such as scissors and nail clippers. Berry et al. is directed to a carrying bag or handbag, for example, for use by women in place of a purse, and not to utility aprons. Nor can Applicant find any teaching or suggestion in Berry et al. that the features of its handbag may be applied to utility aprons. Berry et al. thus constitutes nonanalogous art, and is inapplicable to the present invention. A person of ordinary skill in the art designing utility aprons would not look to handbag or carrying bag art in attempting to address problems of versatility and retention features of utility aprons.

Fleming (5,174,447) is cited and listed as being applied, but the Office Action fails to expressly explain how Fleming applies to the invention as claimed. Based upon Applicant's review, Fleming

merely teaches a tool carrier essentially the same as, and no more material than, Lindsay. Thus, the arguments set forth above regarding Lindsay apply to Fleming.

Dependent claims 2-9 patentably distinguish over Lindsay, Berry et al., and Fleming, taken alone or in combination, in that these claims depend from and more specifically recite the invention of independent claim 1. The arguments set forth above regarding claim 1 therefore apply to these claims as well.

The Office Action at page 3 cites Kikas et al. (4,880,315) as disclosing the use of elastic pocket openings for easy access for removing and replacing an item of wear in the pockets. Kikas is directed to a utility bag or, more specifically, to closed door supported utility bags for supporting a plurality of items such as shoes stockings and other units of wear. The Kikas utility bag is disclosed as being useful for placement on closet doors and the like.

Kikas does not disclose a utility apron. Nor can Applicant find any teaching or suggestion in Kikas that the features of its utility bag for items of wear may be applied to utility aprons. Moreover, the utility bag as disclosed in Kikas is not a type of article, and Kikas is not in a field of art, which a designer of utility aprons on a support device having an interior, an exterior,

an opening, a lip at the opening, and a longitudinal axis, as recited in claim 1, would use or look to for addressing limitations of such apron designs. Kikas thus constitutes nonanalogous art, and for reasons similar to those described for Berry, et al., is inapplicable to the present invention.

Claims 3-8 further patentably distinguish over Lindsay, Berry et al., Fleming and Kikas in that these references fail to disclose or suggest the sizes as recited in these claims. Applicants respectfully submit that the cited cases, In re Rose and In re Yount, cannot support a blanket prohibition against patentability based upon claiming the particular size of an article. Each claim is to be read and judged as a whole. Moreover, the analysis of Graham v. John Deere has not been overridden by any such generalized rule. The sizes recited in these claims facilitate the applicability and suitability of the utility apron for uses in securely retaining such items as cleaning fluid bottles, cleaning supplies, etc. The cited and applied references do not disclose the recited sizes, and fail to provide any motivation or suggestion to adapt tool holders to accommodate such items as cleaning fluid bottles, cleaning supplies, etc.

Independent claim 10 patentably distinguishes over Lindsay in that Lindsay fails to disclose or suggest a utility apron for use

on a support device having an interior, an exterior, an opening, a lip at the opening, and a longitudinal axis, wherein the utility apron comprises a shell having lip portion for contacting the lip of the support device and an interior surface for disposition at the interior of the support device, and a pocket disposed upon the interior surface of the shell toward the longitudinal axis, the pocket including a resilient opening, the size of the opening being variable depending upon the extent to which the resilient opening is extended, as recited in claim 10.

The deficiencies of Lindsay with respect to claim 10 are similar to those set forth above with respect to claim 1. For example, Lindsay fails to disclose or suggest a utility apron wherein an interior pocket includes a resilient opening, and wherein the size of the opening is variable depending upon the extent to which the resilient opening is extended, as recited in claim 10.

As noted above, Berry et al. and Kikas constitute nonanalogous art, and therefore are inapplicable to the invention as claimed in claim 10.

Fleming, as noted above, is not expressly applied, but suffers from the same deficiencies with respect to claim 10 as set forth above for claim 1.

Dependent claims 11-18 patentably distinguish over the cited and applied references, for example, in that they depend from and more specifically recite the invention as set forth in claim 10. Claims 12-17 further patentably distinguish over the cited and applied references, for example, in that these references fail to disclose or suggest the specific sizes recited in these claims. The position set forth above with regard to dependent claims 3-8 fully applies here as well.

Independent claim 19 patentably distinguishes over Lindsay in that Lindsay fails to disclose or suggest a utility apron for use on a support device having an interior, an exterior, an opening, a lip at the opening, and a longitudinal axis, wherein the utility apron comprises a shell having a lip portion for contacting the lip of the support device, an interior surface for disposition at the interior of the support device and toward the longitudinal axis of the support device, and an exterior surface for disposition at the exterior of the support device and away from the longitudinal axis of the support device, and wherein a first pocket is disposed upon the interior surface of the shell, and a second pocket is disposed upon the exterior surface of the shell, and further wherein each of the first and second pockets includes a resilient opening, the size of the opening being variable depending upon the extent to which the resilient opening is extended, as recited in claim 19.

The deficiencies of Lindsay with respect to claim 19 are similar to those set forth above with respect to claims 1 and 10.

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For example, Lindsay fails to disclose or suggest a utility apron wherein interior and exterior pockets include a resilient opening, and wherein the size of the opening is variable depending upon the extent to which the resilient opening is extended, as recited in claim 19.

Again, as noted above, Berry et al. and Kikas constitute nonanalogous art, and therefore are inapplicable to the invention as claimed in claim 19.

Fleming, as noted above, is not expressly applied, but suffers from the same deficiencies with respect to claim 19 as set forth above for claims 1 and 10.

Dependent claims 20-26 patentably distinguish over the cited and applied references, for example, in that they depend from and more specifically recite the invention as set forth in claim 19. Claims 21-26 further patentably distinguish over the cited and applied references, for example, in that these references fail to disclose or suggest the specific sizes recited in these claims. The position set forth above with regard to dependent claims 3-8 and 12-17 also fully applies here.

Applicant acknowledges the Notice of Draftsperson's Patent

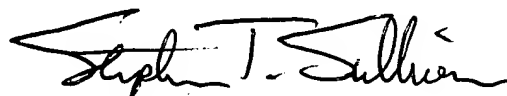
Drawing Review. Applicant will make the requested corrections, but wishes to defer submitting formal drawings with these corrections until payment of the issue fee.

In conclusion, Applicant respectfully submits that claims 1-26 as presented patentably distinguish over the cited and applied references, and are in condition for allowance. Reconsideration of the application is requested in view of the remarks set forth above.

A Petition for a two-month extension of time and fee are being filed concurrently herewith. If any additional fees or amounts are due in connection with the filing of this paper or the prosecution of this application, please notify the undersigned so the fee can be promptly submitted.

Dated: September 8, 1998

Respectfully submitted,



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Date of Deposit September 8, 1998

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed Assistant Commissioner for Patents, Washington, D.C. 20231.

